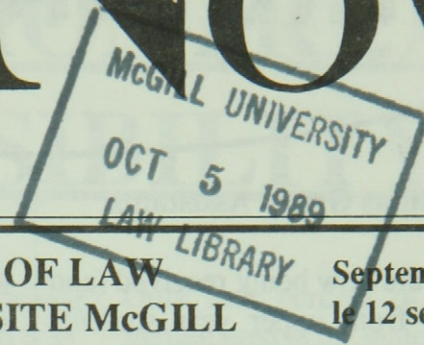


Quid Novi

VOL. X, NO. 2

McGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT DE L'UNIVERSITE MCGILL

September 12, 1989
le 12 septembre 1989



DISTINCT SOCIETY: ONLY THE SHADOW KNOWS

By James D. Hughes, BCL II

This is the second of a three part series on the Meech Lake Accord. The first article examined the distinctiveness of Québécois society. This second offers a compromise to the impasse over the Accord, a compromise which may also better define the meaning of the "distinct society" clause. The final installment lists those who might be able to raise what Hughes calls the "flag of compromise".

Meech Mania continues. The anxiety that the Accord's "distinct society" clause has created is due directly to the fact that its meaning is cloaked in darkness. It is a shadow without form or figure. It is a creature of the night awaiting its call to the light.

The Meech Lake Accord "affirms" the Quebec Government's role to "preserve and promote the distinct identity of Quebec". This clause, and the confusing sections that surround it, is insufficiently clear given its potential impact on Canadian society. The eleven First Ministers must give shape to their constitutional creation. Whether by adding explanatory terms to the Accord itself or by approving an interpretive, parallel Accord, our leaders must tell us how the "distinct society" is supposed to

manifest itself in law and politics. To leave such an important task to the judges would be an abdication of responsibility. Like the abortion issue, the Supreme Court should not be forced to make a political decision, one based on each Justice's own national vision.

The "distinct society" clause ought to be seen as a guarantee of survival to French Quebec. It is the assurance that their way of life will continue to be viable and recognizable. It is a protective measure, not a proactive one. The question therefore becomes : "how is a way of life

protected?" The Burkian view suggests that the strength and wisdom of a society resides in its institutions. The essence, the true meaning, of a society is developed over time and is expressed through the evolving nature of its institutions. This notion gives us a general answer to the above question. If those institutions which have created French Quebec are preserved then that society's way of life is also preserved.

Putting such a view into practice would be difficult. At the same time, the Quebec

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Hey You! Yeah, You!

The *Quid Novi* is looking for students who enjoy writing, either serious or humorous articles about life in the McGill Faculty of Law. We encourage submissions regarding events both within and outside the Faculty which raise topics of interest or concern to students and staff alike.

Conscient des intérêts extérieurs que nous avons tous, nous avons créé le poste de Rédactrice artistique tenu par Darcy Edgar. Les étudiants voulant remettre des articles sur les films, la danse, le théâtre, la musique, etc., sont priés de communiquer avec Darcy ou un autre rédacteur *Quidien*.

Il y aura une réunion d'info mercredi, le 13 septembre à midi dans le bureau de l'AED. (Remember that important date - Wednesday, the 13th of September.) Watch this space and the big, blue *Quid* door for further details!

Announcements

Foundations Group Assistants

Applications are now being received (and encouraged!) from upper year students interested in being group assistants for Foundations. Foundation group assistants will receive 2 credits upon completion of their responsibilities at the end of term. La section française de "Foundations" ayant été annulée, nous sommes à la recherche de Francophones afin de pouvoir offrir des séminaires en français. Approximately 15 group assistants will be required; approximately 4 groups should be conducted in French. Inquiries should be directed immediately to Professor Harvison Young at 398-6636.

Careers News

by Julia E. Hanigsberg, B.C.L. III

Although it may seem early ... the placement office is now open! As Prof. Jutras outlined in his letter in the August mailing, the facilities include a directory of law firms, corporation, government organization, courts, etc. as well as pamphlets from many of these employers. Information on public interest advocacy groups will also soon be available.

The office is open daily. To gain access simply speak to Suzanne Roy-Gasperec (Admissions Office) or to Prof. Jutras.

Stay tuned to the *Quid* for information about careers conferences taking place this semester.

Careers committee members: very short (approximately ten minutes) meeting, Wednesday, September 13 at noon in room 202.

Competitive Moots

Run-offs for students interested in competitive moots will be held during the next couple of days. Those interested should fill out an application form in the Admissions Office. Nous espérons maintenir notre tradition de succès et former des équipes pour les tribunaux-écoles suivant: Migneault, Rousseau, Gale, Laskin, Jessup et "Quebec Bar Prize".

BOOKS! BOOKS! BOOKS!

I would like to thank the volunteers. It was great! Si vous le pouvez, et voulez vous impliquez dans le fonctionnement de la librairie, venez m'aider le mardi et le mercredi, de 10:00 à midi.

Marie Normandin,
Librairie de l'AED/LSA Bookstore

Position Vacant/ Emploi disponible

The *Quid Novi* requires a skilled (i.e. fast) typist, preferably familiar with MacWrite (otherwise we will train you), for Wednesdays 12h00 to 17h00. Le salaire, payé à l'heure, est comparable à celui offert pour des positions similaires. If interested call 398-6966, or pop a note into the *Quid* mail box (in the L.S.A. Office) for Ron or Dan.

District Society... Cont'd from p. 1

Government could be mandated Meech Lake to legislate in favour of French Quebec community in relation what I'll call "essential institutions". If following three criteria are met the Quebec should be allowed to legislate regards that institution:

- 1) the institution is public, not private; and
- 2) the institution has previously played a role in the preservation of French Quebec society; and
- 3) the institution must obviously play a contemporary role in the preservation of French Quebec society.

The first criteria ensures that only the institutions which bear on the community are subject to legislation. Private institutions are unaffected. Quebec has survived until now thus the second criterion; it recognizes the role that the institution has played in Quebec history. Finally, the same institution must continue to play a role in the preservation of Quebecois society. These three conditions are one way to balance collective, social rights against private, individual rights.

By means of this three pronged test, one might conclude that where schools constitute an essential institution (and are thus subject to protective measures), they do not. But the debate doesn't end here. Though schools may be deemed "essential", that does not mean that the Government can disregard minority group rights and individual rights. It means only that in regard to schools, action can be taken. If the Government can make provisions to protect French language schools and the teaching of certain subjects in those schools, that doesn't mean that it cannot provide for bilingual and minority language schools at the same time. When it can do both, it would be unconscionable not to. The move towards language based school boards is an example of doing both.

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A STUDENT MATCHING PROGRAMME IN MONTREAL? ...A DISTICT POSSIBILITY!

Anthony Fata - LLB IV
Evelyn Jerassy - BCL III
Pierre Larouche - LLB IV

The recruitment of law students by Montreal law firms may potentially undergo substantial and fundamental changes in the near future. This is due to the fact that C.A.D.E.D. (la Confédération des associations des étudiants en droit civil) has begun preliminary talks with the twelve largest Montreal law firms in hopes of instituting a matching system similar to those already in effect in Toronto and Vancouver. So far, the response by the Montreal law firms appears to be promising.

C.A.D.E.D. is an organization that is composed of the law students' associations of University of Montreal, University of Sherbrooke, University of Ottawa, Laval University, and of course, McGill University. Thus, it is able to represent the views and speak in the name of all civil law students (with the exception of UQAM) that will eventually work in Quebec law firms.

During a meeting in early January 1989, the members of C.A.D.E.D. agreed that some action should be taken in an effort to alleviate many of the problems inherent in the traditional recruitment process. As it now operates, the recruitment process is best described as a "free for all" and consequently, certain problems exist. For example, students are being increasingly recruited in their first year in law school. Naturally this only increases the already considerable pressure to "perform well". Also, students are not always able to properly evaluate all of their alternatives as they feel pressured to accept the first offer that they receive.

After numerous discussions and informal consultations with students, C.A.D.E.D. prepared several proposals which were then presented to the twelve largest Montreal law firms at a meeting the twelfth of May, 1989 at McGill University. The C.A.D.E.D. proposals are herein summarized:

1-With Respect to the Recruitment Process:

- Law firms should refrain from approaching law students who have not yet completed at least three semesters in law school.
- There should be a fixed period of two weeks in which interviews will take place.
- A matching system should be instituted which is binding for all students and law firms which participate in it.

2-With Respect to the Place of Interviews:

- First interviews should be held on the campus of the university.

Considerable advantages could be realized if the C.A.D.E.D. proposals were implemented. First it would alleviate some pressure on first year students. Law students could feel confident that they will be judged on their academic achievements of three semesters in law school, rather than solely by their first term results. Also, it would allow students to fully and properly evaluate all possible alternatives rather than feeling obliged to accept the first offer that they receive. Lastly, statistics gathered in 1988 show that students overwhelmingly are matched according to their top preferences. For instance, seventy percent of students were matched with the law firm that they ranked first. Thirteen percent of students were matched with their second-ranked law firm. Six percent of students were offered jobs with firms that they ranked third.

Only four percent of the students who participated in the matching program were matched with firms that they ranked six or higher.

The C.A.D.E.D. proposals were described in detail in a seven page letter sent to the twelve law firms, copies of which are available at the L.S.A. Now that it is apparent that these law firms are potentially receptive to changes in the recruiting process, we are actively soliciting any suggestions and commentaries that you have. It is important that we have your general consent and input before any further meetings with Montreal law firms and the Bar (who would supervise any system that might be implemented) take place. In particular, the following questions must be considered:

1-The Scope of the Matching Program:

In both Toronto and Vancouver, the matching program's scope is limited to articling positions. In fact, Toronto even has a separate matching program conducted in the spring for summer jobs. In contrast, C.A.D.E.D. has proposed that the Montreal matching program apply only for articling positions but that, as is done presently, law firms retain the freedom to decide whether or not they will offer a summer job to the student together with an articling offer.

2-Timing of Interviews:

C.A.D.E.D. has proposed that interviews be held during the spring for students who have completed at least three semesters of law school. This is necessary if the matching program is to encompass articling positions as well as allow for the

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Quid Novi is published weekly by students at the Faculty of Law of McGill University, 3644 Peel Street, Montreal, H3A 1W9. Production is made possible by support of the Dean's office and by direct funding from the students. Opinions expressed are those of the author only. Contributions are published at the discretion of the editor and must indicate author or origin.

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Quid Novi est une publication hebdomadaire assurée par les étudiants de la faculté de droit de l'université McGill, 3644 rue Peel, Montréal, H3A 1W9. La publication est rendue possible grâce à l'appui du bureau du doyen, ainsi que par le financement individuel des étudiants. Les opinions exprimées sont propres à l'auteur. Toute contribution n'est publiée qu'à la discrétion du comité de rédaction et doit indiquer l'auteur ou son origine.

Calendar of Events - Orientation -

Lundi / Monday Sept. 11
20h00

Law Partners Party
Thomson House

Mardi / Tuesday Sept. 12

Clinique d'aide juridique
Legal Aid Clinic
Sur la pelouse / On the lawn

16 - 19h00

Mercredi / Wednesday Sept 13
(non-confirmé / tentative)

Rally des Brasseries / Pub Crawl

Lundi / Monday Sept. 18
19h35

Expos v. St. Louis
Stade Olympique/
Olympic Stadium

La Revue de droit de McGill McGill Law Journal

La Revue de droit de McGill est à la recherche de candidats pour son comité de rédaction adjoint pour l'année 1989-90.

La Revue de droit de McGill est une publication trimestrielle offrant des articles, des commentaires d'arrêt, de recueil et de loi à la communauté juridique canadienne et étrangère. Elle vise à promouvoir l'essor du droit au Canada et à contribuer à l'étude des régimes de droit civil et de *common law*. La **Revue** se distingue par son caractère bilingue et juridiquement biculturel. Sa publication est assurée par des étudiants de la Faculté.

Les membres s'engagent à oeuvrer au sein de la **Revue** pendant deux années continues. Le comité de rédaction comprend quinze personnes dont quatre s'occupent de questions administratives. Les autres membres voient au travail de rédaction. Les quinze membres du comité de rédaction adjoint sont initiés aux différents rouages de la **Revue** au cours de la première année, ce qui leur permet de prendre la relève l'année suivante. L'acquisition de techniques de

recherche juridique et de l'expérience générale dans le cadre de la publication d'une revue professionnelle sont au nombre des avantages à une participation active à la **Revue**. La Faculté de droit accorde des crédits académiques aux étudiants, en reconnaissance de leurs efforts.

Eligible candidates are students in their second year of the three year degree or second or third year of the National Programme. Interested students are encouraged to fill in an application form (available at SAO or the **Journal** office) and submit it, along with a one or two page C.V. to SAO by 5:00 p.m. on September 13th. Applicants will receive an assignment (evaluation of an article and an essay) on September 14th, which must be completed by September 21st. Interviews will be held on the 26th and 27th of September, and the new Associate Board will be selected by the end of the month. For further information or particular questions just drop by the **Journal** office in Room 204 of Old Chancellor Day Hall.

L'APPARIEMENT POUR L'EMBAUCHE DES ÉTUDIANTS EN DROIT À MONTRÉAL ?

Par : **Anthony Fata LL.B. IV**
Evelyn Jerassy B.C.L. III
Pierre Larouche LL.B. IV

L'embauche des étudiants en droit par les bureaux de Montréal pourrait bientôt subir des changements importants. En effet, la Confédération des associations des étudiants et étudiantes en droit civil (C.A.D.E.D.) a fait des démarches préliminaires auprès des principaux bureaux d'avocats de Montréal pour que l'embauche des étudiants en droit se déroule désormais selon un système d'appariement (*matching system*) semblable à ceux qui sont présentement en usage à Toronto et à Vancouver. Jusqu'ici, les discussions s'avèrent prometteuses.

La C.A.D.E.D. regroupe l'A.É.D. de l'Université Laval, l'A.É.D. de l'Université de Montréal, l'A.É.D.C.O. de l'Université d'Ottawa, l'A.G.É.D. de l'Université de Sherbrooke et bien sûr votre A.É.D. / LSA. Elle peut ainsi s'exprimer au nom de toutes les étudiantes en droit civil qui se dirigeront éventuellement sur le marché québécois des services juridiques (exception faite des étudiantes de l'UQAM).

Lors d'une réunion de la C.A.D.E.D. au début de 1989, les associations membres se sont entendues pour tenter de remédier aux problèmes causés par l'absence complète d'encadrement du processus d'embauche à Montréal, qui se traduit par un véritable «tohu-bohu». De plus en plus d'étudiants de première année reçoivent des invitations d'études montréalaises, ce qui crée une pression induite à «produire», qui vient s'ajouter aux autres tracas de la première année. En outre, les étudiants sont naturellement portés à accepter la première offre qu'ils reçoivent, de crainte de n'en avoir d'autres s'ils attendent, ce qui les prive de la possibilité de choisir.

Enfin les nombreux déplacements occasionnés par les entrevues causent des ennuis, spécialement pour les étudiants de l'extérieur de Montréal.

Après de nombreuses discussions et de multiples consultations informelles auprès des étudiantes des universités représentées, les propositions de la C.A.D.E.D. ont été élaborées et présentées aux 12 plus grands bureaux de Montréal lors d'une réunion tenue le 12 mai dernier à l'Université McGill.

Les propositions de la C.A.D.E.D. se résument ainsi :

1 - Quant au processus d'embauche :

- aucun effort de recrutement de la part des bureaux d'avocats auprès d'étudiants qui n'auraient pas complété au moins trois semestres d'études en droit ;
- une période fixe pour les entrevues, d'une durée de deux semaines ; et
- un système d'appariement qui a force obligatoire pour les étudiants et les bureaux qui y participent.

2 - Quant au lieu des entrevues :

- la tenue des premières entrevues sur les campus.

Les avantages que l'application de ces directives apporterait aux étudiantes sont considérables. Tout d'abord, les étudiantes de première année pourraient respirer un peu, sachant qu'elles auront en main les résultats académiques de trois semestres lorsqu'elles soumettront leurs dossiers aux bureaux. Par ailleurs, les étudiantes pourraient avoir un véritable choix, entre tous les bureaux qui les ont reçues en entrevues, sans être à la merci d'une offre hâtive. Finalement, les statistiques recueillies l'an dernier à Toronto démontrent que les étudiantes sont en grande majorité appariées selon

leurs préférences : 70 % ont été appariées au bureau qu'elles avaient placé en tête de leur liste, 13 % avec leur second choix, et 6 % avec leur troisième choix. Seulement 4 % des participantes n'ont pas obtenu un de leurs cinq premiers choix.

Les propositions ci-dessus ont été exposées en détail dans un document de travail de sept pages, qui est disponible au bureau de l'A.É.D. / LSA. Comme les bureaux se sont montrés plutôt réceptifs aux propositions de la C.A.D.E.D., nous tenons à solliciter vos commentaires sur les démarches de la C.A.D.E.D. et vos suggestions quant à leur déroulement futur. Il est primordial d'obtenir l'assentiment général des étudiants avant de s'engager plus avant dans des pourparlers avec les bureaux d'avocats et le Barreau (qui devrait superviser tout système qui pourrait être mis sur pied). En particulier, il reste plusieurs questions à éclaircir, dont :

1 - La portée de l'appariement

À Toronto et à Vancouver, l'appariement est strictement limité au stage (*articling*). Il y a même un deuxième appariement, au printemps, pour les emplois d'été. Par contre, la C.A.D.E.D. a proposé que l'appariement porte sur le stage mais qu'en conformité avec la pratique montréalaise, les bureaux soient laissés libres d'offrir ou non aux étudiantes qu'ils embauchent de travailler pour eux durant les périodes estivales qui précèdent leur stage.

2 - Le moment des entrevues

La C.A.D.E.D. a proposé que les entrevues se tiennent au printemps, pour les étudiants ayant complété au moins trois semestres en droit. Il doit en être ainsi si l'appariement porte à la fois sur le stage et sur de possibles emplois d'été (voir ci-

Suite à la p. 6

Matching Programme... Cont'd from p. 3

possibility of summer jobs. In effect, it is necessary that interviews take place before the first summer that students are able to work in law firms. Currently, Montreal law firms hold interviews in the spring for law students in their second year. It is important to note that this C.A.D.E.D. proposition differs from the system in Toronto and Vancouver where interviews are held the summer preceding the student's last year in law school. This is due to the fact that the scope of the matching system is limited to articling positions.

These two issues are obviously related. During the discussions last May, several law firms suggested that the hiring of law students for articling positions presently occurs too early. Consequently, they expressed their preference for a system more like the one that presently exists in Toronto and Vancouver. As, both the present system in Toronto and the one proposed by C.A.D.E.D. have their respective advantages and disadvantages in these respects, your opinions on this issue would be greatly appreciated and useful for the elaboration of C.A.D.E.D.'s future position.

More fundamentally, it will also be

important to convince some law firms once a precise schedule is fixed interviewing students, a matching system is necessary. It is only with the institution of a matching system, that time pressure of the making and acceptance or rejection of offers will be alleviated.

IMPORTANT:

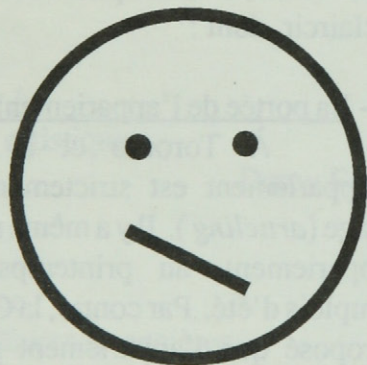
The next conference of C.A.D.E.D. and the Montreal law firms is scheduled for Friday September 22. Between now and then, please do not hesitate to share your suggestions with any member of the L.S.A., in particular the authors of this article.

FOR MIKE

A big **THANK-YOU** to Michael K. for his dedication & hard work in getting out Vol. X, No. 1 of the *Quid Novi* all alone!!!!

Here's to you big guy!

the *Quid Novi* Editorial Board



Distinct Society... Cont'd from p. 1

I believe the protection of Quebec's essential institutions would be "demonstrably justified in a free and democratic society", as the Charter of Rights insists. "Promoting" the distinct society is something entirely different, even if "society" is defined as suggested above. It is a virtual licence to legislate, despite protests that the Accord creates no new rights. But until our politicians illuminate us, only the shadow knows.

L'Appariement... Suite de la p.5

haut). Il faut en effet que les entrevues aient lieu avant le premier été où les étudiants pourraient travailler dans un bureau d'avocats. La pratique courante à Montreal est d'ailleurs déjà de recevoir les étudiants en entrevue au printemps de leur seconde année en droit. Toutefois, encore ici, les propositions de la C.A.D.E.D. diffèrent de ce qui se fait ailleurs. À Toronto et à Vancouver, où l'appariement ne porte que sur le stage, les entrevues ont lieu plus tard, soit à la fin de l'été, juste avant le début de la dernière année d'études en droit.

Ces deux questions sont évidemment dépendantes. Lors des discussions en mai dernier, plusieurs bureaux étaient d'avis que l'embauche pour le stage se fait présentement trop tôt. Ils ont exprimé leur préférence pour un échéancier à la torontoise. Comme le système proposé par

la C.A.D.E.D. et celui de Toronto ont chacun leur avantages et désavantages, quant à ces deux questions, votre opinion sur celles-ci sera très utile à l'élaboration de la position future de la C.A.D.E.D.

Plus fondamentalement, il restera aussi à convaincre plusieurs bureaux qu'une fois qu'un calendrier précis pour les entrevues est arrêté, il faut également établir un système d'appariement, sans quoi la course de vitesse actuelle se perpétuera à l'étape des offres et des acceptations.

AVIS:

La prochaine réunion de la C.A.D.E.D. et des bureaux d'avocats montréalais aura lieu le vendredi 22 septembre prochain. D'ici là, n'hésitez donc pas à faire part de vos commentaires à un membre du Conseil législatif de l'A.É. / LSA, plus particulièrement à l'un des auteurs de cet article.